

App. No. 10/799,414
Attorney Docket 3060.2.1 NP

Remarks

Applicant thanks Examiner for the Written Office Action. In particular, Applicant thanks Examiner for the additional prior art reference of Pagano, and for the interview on 8 September 2005.

With regard to the substantive portion of the Written Office Action, Examiner rejected claims 1-6, 8-17, 20, and 21 as anticipated under 35 USC §102(e) by Pagano. Examiner further rejected claims 7, 18, and 19 under 35 USC §103(a) as unpatentable over Pagano.

Interview with Examiner

In compliance with MPEP §713.04, Applicant includes the substance of the interview with this response. An interview with Examiner was held on 8 September 2005 in which claims 1-21 were discussed. The cited prior art reference of Pagano was also discussed. No agreement was reached in the interview.

Claim Rejections 35 USC §102(e)

In response to Examiner's rejection of claims 1-6, 8-17, 20, and 21 as being anticipated under 35 USC §102(e), applicant argues that several of the dependent claims in this series include elements or limitations that are not found in the cited prior art. For example, the limitation of claim 8 that the display is virtually sectioned into a primary and a secondary section for comparing a preferred image to a compare image is neither expressly nor impliedly taught in the cited prior art.

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MPEP §706.02 (IV) states that “for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly.” Applicant has amended independent claim 1, upon which claims 1-6, and 8-11 depend either directly or indirectly, to include the limitation of claim 8. Independent claim 1, therefore, includes a limitation that is neither expressly nor impliedly taught in the cited prior art. As a result, Applicant believes that claims 1-6, and 8-11 now include at least one element neither expressly nor impliedly taught by the cited prior art, and asks that Examiner remove the rejection on these claims.

As to claims 12-17, 20, and 21, Applicant argues that the independent claim 12, upon which all of claims 13-17, 20 and 21 depend, either directly or indirectly, includes a limitation not found in the cited prior art. MPEP §706.02 (IV) states that “for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly.” Claim 12, however, includes the limitation in one step of “capturing one or more images of the person *wearing an accessory*, wherein the image may be a photograph or a video” (emphasis added). The Pagano reference teaches a device that captures an image of the user, and subsequently enhancing the captured image by adding the image of a pair of glasses. The Pagano reference does not teach the step of capturing one or more images of the person wearing the accessory. Because the Pagano reference does not teach, either explicitly or impliedly the limitation of capturing an image of the person wearing an accessory, Applicant requests that Examiner remove the rejection of claim 12.

Further, because dependent claims necessarily include all of the elements and limitations of the claims upon which they depend, Applicant argues that claims 13-17, 20,

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and 21 also include a limitation not taught either explicitly or impliedly by the Pagano reference. Applicant therefore requests that Examiner remove the rejection as to claims 13-17, 20, and 21.

Claim Rejections 35 USC §103(a)

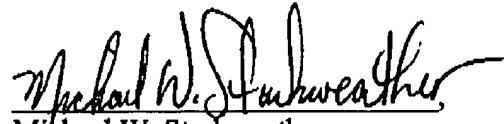
As stated above, Applicant has amended independent claim 1 to include elements or limitations that are neither expressly nor impliedly taught by the cited prior art, and argues that independent claim 12 includes elements or limitations that are neither expressly nor impliedly taught by the cited prior art. Applicant further argues that these elements and limitations are not suggested by the cited prior art. MPEP §2143 requires, among others, that the prior art references must teach or suggest all of the claim limitations. Because dependent claims necessarily include all of the elements and limitations of the claims on which they depend, claims 7, 18, and 19 include limitations neither taught nor suggested by the cited prior art. Applicant requests that Examiner remove the rejection of these claims.

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Conclusion

For these reasons, it is believed that none of the prior art teaches the claimed invention. Furthermore, it is believed that the foregoing amendment has adequate support in the specification, and accordingly there should be no new matter. Applicant believes the pending claims have addressed each of the issues pointed out by the Examiner in the Office Action. In light of the foregoing amendment, the claims should be in a condition for allowance. Should the Examiner wish to discuss any of the proposed changes, Applicant again invites the Examiner to do so by telephone conference.

Respectfully Submitted,


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